

SAN JOAQUIN VALLEY ENERGY CENTER STATUS REPORT #1

Pursuant to the Committee Order Requesting Status Update issued on April 16, 2002, San Joaquin Valley Energy Center, LLC (Applicant) has prepared this Status Report #1. This status report provides a response to each of the questions addressed in the Committee Order.

The Committee Order first asks the Applicant to answer a series of ten questions related to issues that may affect the schedule for this proceeding. The Committee Order also requests the parties to submit a proposed schedule for the remainder of this proceeding. Applicant and Staff are in agreement that the Staff would need additional time after receipt of this latest information provided by Applicant to prepare the Staff Assessment.¹ The Applicant's proposed schedule is set forth herein, after the answers to the ten questions posed by the Committee. Of course, Applicant is committed to expending the resources to support this realistic schedule and looks forward to working with the Committee, Staff, and others in this endeavor.

THE COMMITTEE'S QUESTIONS AND APPLICANT'S ANSWERS

1. When is the San Joaquin Valley Air Pollution Control District (SJVAPCD) expected to issue its Preliminary Determination of Compliance (PDOC)? What issues are outstanding? How will this impact the current schedule?

The SJVAPCD issued its PDOC on March 29, 2002. The Applicant has submitted all of the information requested by the CEC Air Quality Staff. The Applicant believes the Staff has received all of the information it needs to complete its Staff Assessment. Accordingly, the information required to facilitate timely consideration of the SJVEC is already available.

2. When is receipt of the letter confirming that Applicant is not required to engage in a formal consultation process to resolve any issue of listed species/habitat take expected from the US Fish & Wildlife Service? Will the delay in receipt of the letter impact the current schedule?

This item is also completed. Specifically, the US Fish & Wildlife Service sent a letter on March 25, 2002 stating that informal consultation was indeed appropriate, and that the project was not likely to adversely affect listed species. Therefore, there will be no adverse impact on the schedule associated with this issue.

¹ Although the Committee Order references a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA), Applicant understands these terms to refer to the two staff reports referenced in 20 CCR 2027.

3. Has Applicant submitted its responses to Staff's data requests regarding Cultural Resources? How will Applicant's delay in submitting this information impact the current schedule?

As discussed at the April 30, 2002 workshop, the Applicant believes that there are no substantive issues that could result in adverse impacts to Cultural Resources. While the Staff may ask for additional documentation of certain features, Applicant does not believe that this request, if made, should result in any delays in the Staff Assessment.

4. When will Applicant submit its Noise Mitigation package? How much time will Staff require for review of the package? How will this impact the current schedule?

The Applicant has already provided its proposed noise mitigation package. Specifically, the Applicant's noise mitigation package was included as part of the Application for Certification (AFC) and in responses to formal and informal informational requests of the Staff. In summary, the primary components of the Applicant's noise mitigation proposal include the following features:

- Combustion turbines enclosed in an acoustical enclosure designed to limit near field noise to 85 dBA at 3 feet.
- Combustion turbine inlet air silencer.
- Enclosure around HP/IP steam turbine.
- Enclosing many auxiliary and water treatment systems and pumps within the water treatment building.
- Enclosure around the fuel gas compressors.
- Silencers on relief valve stacks, as needed.
- Silencers on HRSG blow down tank vents, as needed.
- Silencers on atmospheric drain vents, as needed.
- Low noise startup features of multiple step steam pressure reduction valves.
- Instrument/service air compressor placed indoors.
- Locate the brine concentrator compressor inside the water treatment facility.
- Extreme service control valves with low-noise specification, as needed.

- Design of major components to limit near field maximum noise levels to less than 90 dBA at 3 feet (or 85 dBA at 3 feet where available as a vendor Standard).
- Selecting an effective plant layout for noise control concerns by placing the center of noise production furthest from the nearest noise receptor.
- Temporary silencers will be used during steam blow operation to quiet the steam blow noise to no greater than 100 dBA measured at a distance of 100 feet.
- Fixed or mobile construction equipment will be equipped with properly operating and maintained muffler exhaust systems.
- An OSHA-level noise survey will be performed to assess the general location of the 85 dBA noise level contour with respect to a potential worker safety demarcation line (in support of conformance with OSHA hearing protection regulations).

The Staff and Applicant engaged in very productive discussions at the April 30, 2002 Issue Resolution Workshop (which was continued to May 2, 2002). Based on those discussions, there remain a few questions and issues related to the exact methodology and significance criteria Staff may recommend. Applicant will continue discussions as Staff's position formalizes. Nevertheless, in terms of informational needs, the Applicant has agreed to proactively supply certain additional information related to potential sensitive receptors. All information that the Applicant will provide will be provided before or concurrent with the information regarding transmission issues, discussed below. In sum, either the issues will be resolved or the parties will agree to litigate the issues before the Committee in time to facilitate a timely Staff Assessment.

5. When will the Staff complete its review of the Applicant's corrected modeling runs? What is the status of the discussions regarding the possibility of Applicant using aqueous rather than anhydrous ammonia and/or potential Environmental Justice issues? How will this impact the current schedule?

Based on the discussions at the Issues Resolution Workshop, Applicant has agreed to use aqueous ammonia in lieu of anhydrous ammonia. This agreement is based, in part, on the mutual understanding that the switch to aqueous ammonia will not require substantial delays in the project schedule and that there are no unanticipated significant impacts associated with the switch to aqueous ammonia.²

² Applicant continues to believe that the facts support the conclusion that there are no significant impacts associated with the use of anhydrous ammonia; however, the Applicant has agreed to the change based, in part, on Staff's stated concerns and on the Staff and Applicant's mutual interest in resolving this issue before evidentiary hearings.

In response to the Committee's question, Applicant reiterates that given its intent to ensure that the project will not result in any significant impacts, there will be no disproportionately high and adverse impacts that fall on any minority or low-income population and thus no environmental justice issues.

6. Has Applicant submitted its responses to Staff's data requests regarding Applicant's proposed Erosion and Sediment Control Plan? How will Applicant's delay in submitting this information impact the current schedule?

Applicant prepared and submitted a Preliminary Stormwater Pollution and Prevention Plan (SWPPP) for construction on March 20, 2002 (Data Response Set 1C). The SWPPP includes a proposed Erosion and Sediment Control Plan. An updated draft construction SWPPP and a preliminary draft industrial SWPPP were prepared and submitted on March 29, 2002 (Data Response, Set 1D). The Industrial SWPPP is very premature for this stage in the permitting process. However, we are certain that the material that has been submitted will be sufficient to avoid a delay in the schedule.

7. Has Applicant submitted its Transmission System Mitigation Plan to Cal-ISO and Staff? When is a response for Cal-ISO expected? How will this impact the current schedule?

At the Issues Resolution Workshop, Staff presented a conceptual framework for addressing its concerns related to transmission issues. Transmission related issues for this proceeding fall into three general categories: (1) safe and reliable interconnection; (2) congestion management issues; and (3) possible reconductoring.

First, the issues related to safe and reliable interconnection of the SJVEC are resolved, and have been resolved for some time. Specifically, Applicant received Preliminary Interconnection Approval by way of a December 14, 2001 letter from the Cal-ISO.

Second, the issues related to congestion management are typically post-certification issues. Applicant continues to maintain that all congestion management issues are not properly part of the Commissions siting proceedings.³

Third, Applicant is pleased to report that there seems to be substantial progress made on the issue of potential reconductoring. Specifically, the Staff and Applicant discussed a conceptual framework that would satisfy the Staff's desire

³ The Commission does not simply ignore potential congestion issues because they are currently unforeseeable. To the contrary, the Commission fulfills its obligations under CEQA by: (1) analyzing the impacts of facilities required for reliable interconnection; and (2) supporting its CEQA analysis with appropriate Conditions of Certification. See, for example, DEC Decision, Conditions TSE-1, TSE-2, and TSE-3; and MEC Decision, TSE-1, TSE-2, and TSE-3.

for additional information and the Applicant's desire to avoid delaying the proceeding by introducing congestion management issues that the applicant believes are more properly post-certification issues. This may be a case where Staff and Applicant reach an agreement to disagree on certain points yet ultimately agree as to the nature and scope of analysis the Staff will conduct, all in accordance with CEQA principles.

Staff will be providing Applicant with both a more detailed conceptual framework for its analysis and its informational requests. Assuming agreement between Staff and Applicant on the conceptual framework and the scope of the informational request, this information request will be the longest lead time item, thus having the greatest influence on the schedule for this proceeding. Nevertheless, the resolution of this issue should not substantially delay the Staff Assessment. The time required to satisfy this informational request, or to agree to litigate the issue in evidentiary hearings, is reflected in Applicant's proposed schedule below.

8. Has Applicant submitted additional visual resource analysis and mitigation information? What issues are outstanding? How will this impact the current schedule?

Applicant submitted an additional visual resource analysis (based on discussions at the March 7, 2002 workshop) on March 29, 2002 (Data Response, Set 1D). Applicant and Staff discussed this issue during the Issue Resolution Workshop. Applicant will be providing some additional information regarding the Landscaping Plan and the preferences of the City of San Joaquin; however, because there is sufficient time to provide this information in the Applicant's proposed schedule, there will be no delay associated with this item.

9. What is the status of Applicant's Environmental Assessment? How will receipt of this document impact the current schedule?

The Phase II Environmental Assessment for the project site (i.e., the sampling results) was filed on April 4, 2002 (Data Response, Set 1E). No substantive concerns are raised in the assessment, and no delays are anticipated to occur relative to soil and groundwater conditions on the project site.

10. Are there any other scheduling matters pertinent to this proceeding of which the Committee should be aware?

Provided that the Staff's conceptual frameworks for the critical issues of Transmission and Noise are provided by Staff and acceptable to Applicant, the Applicant believes that there are few, if any, remaining substantive issues. Specifically, Applicant believes that all of the issues discussed herein can and will be resolved with a finding of no significant environmental impacts and compliance with applicable LORS. Applicant further believes that the Applicant and Staff will either (1) resolve issues or (2) agree to litigate those issues in

evidentiary hearings in a timely manner to support the Applicant's proposed schedule below.

APPLICANT'S PROPOSED SCHEDULE

Maintaining a prompt and efficient schedule is of the utmost importance to the Applicant. Based on our discussions with Staff at the Issues Resolution Workshop, we believe that Staff shares this interest in prompt resolution of the remaining issues. In that connection, the Applicant will continue to work cooperatively with Staff to address reasonable informational needs or other requests as and when they arise. However, notwithstanding the strong desire and preference to proceed to evidentiary hearings with all major issues resolved, the Applicant continues to place a premium on timely certification of the SJVEC project.

Toward that end, Applicant suggests a reasonable yet aggressive schedule for the issuance of the Staff Assessment, recognizing the Staff's opportunity to provide additional analyses in the Supplemental Staff Assessment. Given this need to balance the desire to resolve issues as expeditiously as possible and the need for timely certification, Applicant respectfully suggests the following schedule for the remainder of this proceeding.

APPLICANT'S PROPOSED SCHEDULE	
EVENT	DATE
Staff Issues Staff Assessment, aka, the PSA	Mid June
Staff Issues Addendum, aka, the FSA ⁴	Early July
Prehearing Conference (if necessary)	Mid July
Evidentiary Hearings ⁵	Late July/Early August (1 day for a hearing is probably sufficient)
Presiding Member's Proposed Decision Issues	Late August/Early September
Final Commission Decision	Late September/Early October

This proposed schedule is admittedly aggressive, yet realistic. It is incumbent upon the Committee to set such an aggressive but realistic schedule. If, on the one hand, circumstances warrant slight extensions of time, the Committee has the authority to do so

⁴ The Staff has the option of issuing an Addendum to the Staff Assessment or issuing an FSA. If most issues are resolved, that Addendum could be a letter to the Committee confirming that Staff's positions are reflected in the Staff Assessment. The Applicant believes that the Staff should select whichever format can be prepared most expeditiously.

⁵ Section 1747 of the Siting Regulations provides that the Final Staff Assessment be issued at least 14 days before the start of the evidentiary hearings pursuant to section 1748 or at such other time as required by the Presiding Member. However, this time frame could be further compressed because this section also gives the Presiding Member the authority to set an interval of less than 14 days between issuance of the FSA and the evidentiary hearings.

without penalty or delay. If, on the other hand, circumstances warrant shorter time frames, the Commission's noticing requirements will likely inhibit if not prohibit shortening of time. Further, this project is ready to proceed to hearings. Applicant looks to the Committee to facilitate the timely consideration of the SJVEC project.

The Applicant is, of course, available to meet with the Committee in a properly noticed meeting to elaborate upon these comments. Thank you for your time and consideration.

RESPECTFULLY SUBMITTED

Jeffery D. Harris
Christopher T. Ellison
Ellison, Schneider & Harris

Attorneys for SJVEC, LLC